

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FILED

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CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

**MICHAEL A. MOHR, D. JACK
SAWYER, JR. & TODD TAUTFEST**

Plaintiffs,

v.

**BANK OF NEW YORK MELLON
CORPORATION,**

Defendant.

Case No.:

A10mc268 LY

(Case No. 1:09CV-2999-TWT
Pending in the U.S. District Court
for the Northern District of
Georgia)

**DEFENDANT THE BANK OF NEW YORK MELLON'S MOTION TO ENFORCE ITS
SUBPOENA TO WILMINGTON TRUST
AND COMPEL PRODUCTION OF DOCUMENTS**

Defendant The Bank of New York Mellon Corporation ("BNY Mellon") hereby moves, pursuant to Rules 37 and 45 of the Federal Rules of Civil Procedure, to enforce its subpoena to Wilmington Trust for the production of documents. This Court issued the subpoena, attached as Exhibit 1, on December 11, 2009. It was served on Wilmington Trust through the Secretary of State on December 14, 2009. Wilmington Trust has failed to produce documents responsive to the subpoena that relate to BNY Mellon's claims and defenses and are discoverable pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure. For the reasons stated in BNY Mellon's Memorandum of Law in support of this Motion, which is filed with BNY Mellon's concurrent Motion to file the Memorandum of Law and Appendix under seal, BNY Mellon requests that this Court enter an order requiring Wilmington Trust: (1) to show cause why it is not in contempt of Court for its failure to produce documents responsive to the subpoena; (2) to produce the documents responsive to the subpoena in its possession, custody, or control; and (3) to reimburse BNY Mellon's reasonable attorneys' fees and costs in bringing this motion.

Respectfully submitted, this 20th day of April, 2010.



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